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cated a bankrupt. *Held*, that the referee may enjoin the creditors from all further proceedings in the State courts against the bankrupt.

The older decisions hold that the assignee must defend actions against the bankrupt in the court in which they were begun. *Eyster v. Gaff*, 91 U. S. 521. Since the Bankruptcy Act of 1898, the weight of authority is that such actions should be brought in the District court, but there is some doubt. *Bardes v. Hawarden Bank*, 178 U. S. 524, holds that controversies between the receiver and strangers should not be brought within the jurisdiction of the Federal courts without the consent of the strangers. Other decisions hold that the District court obtains jurisdiction over all property to which the adverse claim is merely colorable, and this seems the better rule. *Bryan v. Bernheimer*, 181 U. S. 188; *Mueller v. Nugent*, 22 Sup. Ct. 269.

BASTARDY—RESEMBLANCE OF CHILD TO DEFENDANT—INTRODUCTION OF CHILD IN EVIDENCE.—*KELLY v. STATE*, 32 So. 56 (ALA.).—*Held*, that a bastard child may be introduced in evidence, to show his resemblance to the defendant.

By the weight of authority, resemblance, as indicating that the defendant is the parent of the child, is admissible in evidence; and to establish it the child can be exhibited. *Finnegan v. Dugan*, 14 Allen 197; *Guant v. State*, 50 N. J. L. 490; *Whart., Ev.*, sec. 346. *Contra*, see *Reitz v. State*, 33 Ind. 187; *Keniston v. Rowe*, 16 Me. 38; *Hanawalt v. State*, 64 Wisc. 84; *Beck, Med. Jur.*, 615; although the reason assigned, the inconclusiveness of such evidence, is hardly satisfactory. In Iowa the age of the child determines the question. *State v. Smith*, 54 Iowa 104. In *State v. Britt*, 78 N. C. 479, the testimony of witnesses to the resemblance was permitted, but this is generally denied. *U. S. v. Collins*, 1 Cranch 592. But as to the analogous case of comparison of handwritings, see *Whart., Ev.*, sec. 708.

BOUNDARIES—LEGISLATIVE DETERMINATION—CONCLUSIVENESS ON COURTS.—*CAMERON'S EX'RS v. STATE*, 68 S. W. 508 (TEX.).—The legislature in 1833 granted lands to Greer County for school purposes. Subsequently the United States Supreme Court decided that Greer County was not, and never had been, a part of Texas. *Held*, that the action of the legislature in treating Greer County as a part of the State at the time the grant was made is still conclusive on the courts, and such school lands cannot be recovered from the grantee of the county on the ground that, as the county was never a part of the State the grant was void.

The court relied upon *Harrold v. Herington*, 64 Tex. 233, and cases cited therein. The decisions of the State courts which were quoted as authority for the proposition that the judicial department could not limit the jurisdiction asserted by the political department are cases in which the boundary had not been settled by the U. S. Supreme Court. *State v. Dunwell*, 3 R. I. 128; *Bedell v. Loomis*, 11 N. H. 15. In the following cases the controversy rose out of questions of national and not of State boundary. *Foster v. Neilson*, 2 Pet. 253; *U. S. v. Arredondo*, 6 Pet. 691. The court disregarded these distinctions. There is much authority on the other side of the question. It appears that the legislature never had jurisdiction over Greer County, hence all acts in relation thereto were void. *Norton v. Shelby*, 118 U. S. 434. Legislative authority of a State must spend its force within its territorial

limits. *Cooley, Const. Lim.*, 5th ed., 151; *Hilton v. Guyot*, 159 U. S. 163. The case is in analogy to grants to fictitious persons which have repeatedly been held void. *Moffatt v. U. S.*, 112 U. S. 31; *Wash., Real Property* 265.

BREACH OF MARRIAGE PROMISE—REQUEST TO PERFORM—REFUSAL.—CLARK v. COREY, 52 ATL. 811 (R. I.).—The defendant on account of sickness caused by drunkenness was unable to marry plaintiff on the day set. Without any further communication between them in regard to marriage, suit was brought for breach of promise. *Held*, that the plaintiff having made no offer or request, the defendant's failure to offer to marry after the day set did not amount to a refusal constituting a breach. Tillinghast, J., *dissenting*.

When the day set had passed, the promise became a general one, which the law construes to be performed upon request. *Kelly v. Renfro*, 9 Ala. 325. If the plaintiff has made no request or offer, a refusal must be shown on the part of the defendant. *Cole v. Halliday*, 4 Mo. App. 98; *Coil v. Wallace*, 24 N. J. L. 291. The dissenting opinion lays stress on a quotation from *Seymour v. Gortside*, 2 Dowl. & Ry. 55; "if after an engagement to marry, and the lapse of the time agreed upon, the gentleman omits to offer to marry, it is generally considered a refusal." But the weight of the English cases as well as the American is *contra*. *Gough v. Far*, 2 Car. & P. 631.

CARRIERS—EJECTION OF PASSENGER—USE OF TICKET ON DAY ISSUED.—GEORGIA R. CO. v. BALDONI, 42 S. E. 364 (GA.).—*Held*, that a notice in a railroad station to the effect that tickets must be used on day issued is not notice to a passenger, unless it is shown that he had read the notice or was directed to, and that an ejection from a train because a ticket was two days old was unjustified.

A railroad company has the right to provide and insist that passenger tickets shall be used upon the day issued, but such condition should be endorsed upon the ticket, or notice given to passenger. *Elmore v. Sand*, 54 N. Y. 512; *Hill v. Syracuse, B. & N. Y. R. R. Co.*, 63 N. Y. 101. One cannot be held to contracts of this nature where they know nothing of the condition, and to which they had not expressly or impliedly assented. *Blossom v. Dodd*, 43 N. Y. 264; *Rawson v. Penn. R. R. Co.*, 48 N. Y. 212.

COVENANT OF WARRANTY—MAINTENANCE OF DIVISION WALL—BREACH.—ENSIGN ET AL. v. COLT, 52 ATL. 829 (CONN.).—*Held*, a right in an adjoining owner, enforced by injunction, to maintenance of wall half of which is on grantee's land constitutes breach of the covenant of warranty to grantee. Hamersley and Prentice, JJ., *dissenting*.

Some courts hold broadly that a right in a third party to an easement in property granted, when enforced, may constitute breach of covenant of Warranty. *Harlow v. Thomas*, 15 Pick. 66; *Lamb v. Danforth*, 59 Me. 322. But *contra*, if easement is consistent with ownership and possession of land conveyed, there is no breach. *Mitchell v. Warner*, 5 Conn. 498. Also, if easement is open and visible, and of a continuous character; *Patterson v. Arthurs*, 9 Watts 154; or if easement is mutual and a benefit. *Hendricks v. Stark*, 37 N. Y. 106. The great diversity in the decisions seems due to the widely different views courts take of the nature and scope of the covenants of warranty and against incumbrances. No uniform rule as to their construction appears to exist.